

MONTANA LEGISLATIVE HISTORY

Chapter 498 19 77

Bill H _____ S 99

Original bill & history ✓ c

H. Committee on Jud

Hearing Date(s) 2/10 ✓ c

4/25 ✓ c

select Gen. 3/8 ✓ c

in connection, _____ c

Date Out _____ c

S. Committee on Jud

Hearing Date(s) 1/10 ✓ c

1/29 ✓ c

_____ c

_____ c

Did this bill originate in an interim committee? ✓ Yes ✓ No

Committee _____

Report _____

MONTANA SESSION LAWS 1997

lxxxvi

- 37-19-306, 37-20-203, 37-20-302, 37-23-203, 37-23-205, 37-25-307, 37-27-205, 37-29-304, 37-29-306, 37-30-310, 37-30-423, 37-30-424, 37-31-302, 37-32-305, 37-40-203, 37-40-304, 37-50-203, 37-50-314, 37-50-317, 37-51-310, 37-51-603, 37-65-306, 37-66-307, 37-68-307, 37-68-310, 37-69-307, 37-72-306, 50-39-102, 50-74-313, AND 50-76-105, MCA; AND PROVIDING AN EFFECTIVE DATE. 2723
- 493 (House Bill No. 610; Grady) AN ACT ESTABLISHING A LEGISLATIVE COMMITTEE TO STUDY THE REVENUE AND EXPENDITURES OF THE HIGHWAYS STATE SPECIAL REVENUE ACCOUNT AND MONTANA'S TRANSPORTATION INFRASTRUCTURE NEEDS; PROVIDING FOR APPOINTMENTS TO THE COMMITTEE; APPROPRIATING FUNDS FOR THE OPERATION OF THE COMMITTEE; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE. 2746
- 494 (House Bill No. 615; Cobb) AN ACT ESTABLISHING AN INTERIM COMMISSION TO OVERSEE, PUBLICIZE, AND REPORT ON A STUDY OF THE SOCIOECONOMIC IMPACTS OF GAMBLING IN MONTANA; PROVIDING AN APPROPRIATION; AMENDING SECTION 23-7-402, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE. 2749
- 495 (Senate Bill No. 44; Holden) AN ACT CLARIFYING AND LIMITING A MOTOR VEHICLE LIABILITY INSURER'S LIABILITY UNDER A POLICY; AMENDING SECTIONS 33-23-203 AND 33-23-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE. 2752
- 496 (Senate Bill No. 57; Waterman) AN ACT GENERALLY REVISING THE CLASSIFICATION, VALUATION, AND TAXATION OF MOTOR VEHICLES; TAXING AUTOMOBILES, TRUCKS HAVING A MANUFACTURER'S RATED CAPACITY OF 1 TON OR LESS, VANS, AND SPORT UTILITY VEHICLES AT 2 PERCENT OF THE DEPRECIATED VALUE OF THE MANUFACTURER'S SUGGESTED RETAIL PRICE; EXEMPTING FROM PROPERTY TAXATION BUSES, TRUCKS HAVING A MANUFACTURER'S RATED CAPACITY OF MORE THAN 1 TON, TRUCK TRACTORS, AND PERSONAL PROPERTY ATTACHED TO THESE EXEMPT VEHICLES; IMPOSING A FEE IN LIEU OF PROPERTY TAXES ON BUSES, TRUCKS HAVING A MANUFACTURER'S RATED CAPACITY OF MORE THAN 1 TON, AND TRUCK TRACTORS; PROVIDING FOR THE PRORATION OF THE FEE IN LIEU OF TAX; CLARIFYING THAT SPECIAL MOBILE EQUIPMENT IS SUBJECT TO PROPERTY TAX; REPLACING THE TAX ON QUADRICYCLES WITH A FEE IN LIEU OF TAX; PROVIDING FOR AN ANALYSIS OF ALTERNATIVE METHODS OF CLASSIFICATION, VALUATION, AND TAXATION OF AUTOMOBILES AND TRUCKS HAVING A MANUFACTURER'S RATED CAPACITY OF 1 TON OR LESS; AMENDING SECTIONS 7-1-2111, 15-6-138, 15-6-201, 15-8-111, 15-8-201, 15-8-202, 15-16-202, 15-50-207, 20-9-141, 20-9-331, 20-9-333, 20-9-360, 20-9-501, 20-10-144, 20-10-146, 61-3-101, 61-3-208, 61-3-303, 61-3-456, 61-3-501, 61-3-503, 61-3-504, 61-3-506, 61-3-507, 61-3-509, 61-3-520, 61-3-527, 61-3-535, 61-3-537, 61-3-701, AND 61-12-402, MCA; REPEALING SECTIONS 15-24-101, 15-24-102, 15-24-103, 15-24-104, 15-24-105, AND 15-24-2501, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE. 2753
- 497 (Senate Bill No. 97; Grosfield) AN ACT GENERALLY REVISING THE WATER LAWS TO CLARIFY THAT THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MAY ISSUE WATER PERMITS AND CHANGE AUTHORIZATIONS PRIOR TO THE

5/01 SIGNED BY GOVERNOR
CHAPTER NUMBER 497
EFFECTIVE DATE: 05/01/97

SB 98 INTRODUCED BY THOMAS LC0771 DRAFTER: MCCLURE

AUTHORIZE THE UNIVERSITY SYSTEM TO ELECT WORKERS'
COMPENSATION COVERAGE UNDER PLAN NO. 1, PLAN NO. 2, OR PLAN
NO. 3

BY REQUEST OF BOARD OF REGENTS

1/01	INTRODUCED		
1/03	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
1/06	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/14	FISCAL NOTE RECEIVED		
1/15	FISCAL NOTE PRINTED		
1/16	HEARING		
2/04	HEARING		
2/06	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/10	2ND READING DO PASS MOTION FAILED	20	30
2/11	RECONSIDERED PREVIOUS ACTION	30	20
2/17	2ND READING DO PASS AS AMENDED MOTION FAILED	24	26

SB 99 INTRODUCED BY THOMAS LC0222 DRAFTER: LANE

REVISE THE LAWS RELATING TO JUVENILE JUSTICE

BY REQUEST OF JUVENILE JUSTICE & JUVENILE MENTAL HEALTH STUDY
COMMISSION

1/01	INTRODUCED		
1/03	REFERRED TO JUDICIARY		
1/06	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/10	HEARING		
1/17	FISCAL NOTE RECEIVED		
1/20	FISCAL NOTE PRINTED		
1/29	REVISED FISCAL NOTE REQUESTED		
1/30	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/03	REVISED FISCAL NOTE RECEIVED		
2/08	REVISED FISCAL NOTE PRINTED		
2/13	2ND READING PASSED	48	2
2/14	3RD READING PASSED	47	3
	TRANSMITTED TO HOUSE		
2/15	FIRST READING		
2/15	REFERRED TO CORRECTIONS SELECT COMMITTEE		
2/20	HEARING		
3/06	TABLED IN COMMITTEE		
3/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/13	2ND READING CONCURRED AS AMENDED	69	29
3/15	3RD READING CONCURRED	72	25
	RETURNED TO SENATE WITH AMENDMENTS		
3/19	2ND READING AMENDMENTS NOT CONCURRED	50	0
3/20	CONFERENCE COMMITTEE APPOINTED		
4/10	HEARING		
4/10	CONFERENCE COMMITTEE DISSOLVED		
4/10	FREE CONFERENCE COMMITTEE APPOINTED		
4/11	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/16	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	40	0

SB 100. HISTORY AND FINAL STATUS 1997 56

4/17	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	2
	HOUSE		
3/24	CONFERENCE COMMITTEE APPOINTED		
4/10	CONFERENCE COMMITTEE DISSOLVED		
4/10	FREE CONFERENCE COMMITTEE APPOINTED		
4/11	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	94	6
4/17	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	84	15
4/24	SIGNED BY PRESIDENT		
4/24	SIGNED BY SPEAKER		
4/24	TRANSMITTED TO GOVERNOR		
5/02	SIGNED BY GOVERNOR CHAPTER NUMBER 498 EFFECTIVE DATE: 05/02/97		

SB 100 INTRODUCED BY BECK LC0211 DRAFTER: MARTIN

CLARIFY THE CLASSIFICATION OF FOREST LAND FOR PROPERTY TAX
PURPOSES

BY REQUEST OF DEPARTMENT OF REVENUE

1/01	INTRODUCED		
1/03	REFERRED TO TAXATION		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/09	FISCAL NOTE RECEIVED		
1/10	HEARING		
1/10	FISCAL NOTE PRINTED		
1/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/24	2ND READING PASSED	48	0
1/25	3RD READING PASSED	46	0
	TRANSMITTED TO HOUSE		
1/27	FIRST READING		
1/27	REFERRED TO TAXATION		
2/05	HEARING		
2/07	COMMITTEE REPORT—BILL CONCURRED		
4/08	2ND READING CONCURRED	97	2
4/09	3RD READING CONCURRED	97	3
	RETURNED TO SENATE		
4/14	SIGNED BY PRESIDENT		
4/15	SIGNED BY SPEAKER		
4/15	TRANSMITTED TO GOVERNOR		
4/17	SIGNED BY GOVERNOR CHAPTER NUMBER 297 EFFECTIVE DATE: 04/17/97		

SB 101 INTRODUCED BY BECK LC0060 DRAFTER: STERNBERG

PROVIDE THAT CERTAIN VETERINARY MEDICAL STUDENTS WHO WORK
UNDER THE DIRECT SUPERVISION OF A LICENSED VETERINARIAN ARE
EXEMPT FROM VETERINARY LICENSURE

1/01	INTRODUCED		
1/03	REFERRED TO BUSINESS & INDUSTRY		
1/06	FIRST READING		
1/16	HEARING		
1/17	COMMITTEE REPORT—BILL PASSED		
1/18	2ND READING PASSED	41	0

SENATE BILL NO. 99

INTRODUCED BY THOMAS

BY REQUEST OF THE JUVENILE JUSTICE AND MENTAL HEALTH STUDY COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO JUVENILE JUSTICE; GENERALLY REVISING THE LAWS RELATING TO EXTENDED JURISDICTION PROSECUTION OF JUVENILES; AUTHORIZING THE COURT OR THE COUNTY ATTORNEY TO DESIGNATE A JUVENILE AS AN EXTENDED JURISDICTION JUVENILE; AUTHORIZING ADULT FELONY SENTENCES FOR EXTENDED JURISDICTION JUVENILES; EXTENDING YOUTH COURT JURISDICTION TO AGE 25 FOR EXTENDED JURISDICTION JUVENILES; GENERALLY REVISING THE LAW RELATING TO THE TRANSFER OF JUVENILE CASES TO THE DISTRICT COURT AFTER PROSECUTION IN THE YOUTH COURT WITH RESPECT TO CASES THAT ARE NOT EXTENDED JURISDICTION JUVENILE PROSECUTION CASES OR WERE NOT PREVIOUSLY TRANSFERRED TO ADULT COURT FOR PROSECUTION; PROVIDING FOR TRANSFER, AFTER A HEARING, OF SUPERVISORY RESPONSIBILITY OF CERTAIN JUVENILE CASES FROM THE YOUTH COURT TO THE DISTRICT COURT AFTER PROSECUTION WITH RESPECT TO CASES THAT ARE NOT EXTENDED JURISDICTION JUVENILE PROSECUTION CASES OR WERE NOT PREVIOUSLY TRANSFERRED TO ADULT COURT FOR PROSECUTION; AMENDING SECTIONS 41-5-203, 41-5-205, 41-5-206, 41-5-208, 41-5-501, 41-5-1102, 41-5-1103, 41-5-1104, AND 41-5-1105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-5-203, MCA, is amended to read:

"41-5-203. Jurisdiction of the court. (1) Except as provided in subsection (2), the court has exclusive original jurisdiction of all proceedings under the Montana Youth Court Act in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care or concerning any person under 21 years of age charged with having violated any law of the state or ordinance of any city or town other than a traffic or fish and game law prior to having become 18 years of age.

(2) Justice, municipal, and city courts have concurrent jurisdiction with the youth court over all alcoholic beverage, tobacco products, and gambling violations alleged to have been committed by a youth.

Legislative
Services
Division

1 (3) The court has jurisdiction to designate a proceeding an extended jurisdiction juve
2 prosecution, to conduct a hearing, to receive a plea, and to impose upon a youth who is convicted a
3 extended jurisdiction juvenile an adult sentence that may extend beyond the youth's age of majority.

4
5 **Section 2.** Section 41-5-205, MCA, is amended to read:

6 **"41-5-205. Retention of jurisdiction -- termination.** (1) The court may dismiss a petition
7 otherwise terminate jurisdiction on its own motion or on the motion or petition of any interested party
8 any time. Once a court obtains jurisdiction over a youth, the court retains jurisdiction unless Unle
9 terminated by the court or by mandatory termination in the following cases: and except as provided
10 subsections (2) and (3), the jurisdiction of the court continues until the individual becomes 21 years of ag

11 (2) Court jurisdiction terminates when:

12 (1)(a) at the time the proceedings are transferred to adult criminal district court under 41-5-20
13 or 41-5-208;

14 (2)(b) at the time the youth is discharged by the department; and or

15 (c) execution of an adult sentence is ordered under 41-5-1105(2)(b)(iii) and the supervisor
16 responsibilities are transferred to the district court under 41-5-1105.

17 (3) in any event, at the time the youth reaches the age of 21 years.

18 (3) The jurisdiction of the court over an extended jurisdiction juvenile, with respect to the offense
19 for which the youth was convicted as an extended jurisdiction juvenile, extends until the offender becomes
20 25 years of age unless the court terminates jurisdiction before that date."

21
22 **Section 3.** Section 41-5-206, MCA, is amended to read:

23 **"41-5-206. Transfer to criminal court prior to prosecution -- optional designation as extended**
24 **jurisdiction juvenile prosecution.** (1) After Subject to subsection (10), after a petition has been filed alleging
25 delinquency and before hearing the petition on its merits, the court may, upon motion of the county
26 attorney, before hearing the petition on its merits, transfer the matter of prosecution to the district court
27 if:

28 (a) (i) the youth charged was 12 years of age or more at the time of the conduct alleged to be
29 unlawful and the unlawful act would constitute sexual intercourse without consent as defined in 45-5-503,
30 deliberate homicide as defined in 45-5-102, mitigated deliberate homicide as defined in 45-5-103, or the

1 attempt, as defined in 45-4-103, of either deliberate or mitigated deliberate homicide if the act had been
2 committed by an adult; or

3 (ii) the youth charged was 16 years of age or more at the time of the conduct alleged to be unlawful
4 and the unlawful act is one or more of the following:

5 (A) negligent homicide as defined in 45-5-104;

6 (B) arson as defined in 45-6-103;

7 (C) aggravated or felony assault as defined in 45-5-202;

8 (D) robbery as defined in 45-5-401;

9 (E) burglary or aggravated burglary as defined in 45-6-204;

10 (F) aggravated kidnapping as defined in 45-5-303;

11 (G) possession of explosives as defined in 45-8-335;

12 (H) criminal sale of dangerous drugs as defined in 45-9-101;

13 (I) criminal production or manufacture of dangerous drugs as defined in 45-9-110;

14 (J) attempt, as defined in 45-4-103, of any of the acts enumerated in subsections (1)(a)(ii)(A)
15 through (1)(a)(ii)(I);

16 (b) a hearing on whether the transfer should be made is held in conformity with the rules on a
17 hearing on a petition alleging delinquency, except that the hearing must be conducted by the youth court
18 without a jury;

19 (c) notice in writing of the time, place, and purpose of the hearing is given to the youth, the
20 youth's counsel, and the youth's parents, guardian, or custodian at least 10 days before the hearing; and

21 (d) the court finds upon the hearing of all relevant evidence that there is probable cause to believe
22 that:

23 (i) the youth committed the delinquent act alleged;

24 (ii) the seriousness of the offense and the protection of the community require treatment of the
25 youth beyond that afforded by juvenile facilities; and

26 (iii) the alleged offense was committed in an aggressive, violent, or premeditated manner.

27 (2) In transferring the matter of prosecution to the district court, the court may also consider the
28 following factors:

29 (a) the sophistication and maturity of the youth, determined by consideration of the youth's home,
30 environmental situation, and emotional attitude and pattern of living;

1 (b) the record and previous history of the youth, including previous contacts with the youth court,
2 law enforcement agencies, youth courts in other jurisdictions, prior periods of probation, and prior
3 commitments to juvenile institutions. However, lack of a prior juvenile history with youth courts is not of
4 itself grounds for denying the transfer.

5 (3) The court shall grant the motion to transfer if the youth was 16 years old or older at the time
6 of the conduct alleged to be unlawful and the unlawful act would constitute deliberate homicide as defined
7 in 45-5-102, mitigated deliberate homicide as defined in 45-5-103, or the attempt, as defined in 45-4-103,
8 of either deliberate or mitigated deliberate homicide if the act had been committed by an adult.

9 (4) Upon transfer to district court, the judge shall make written findings of the reasons why the
10 jurisdiction of the youth court was waived and the case transferred to district court.

11 (5) The transfer terminates the jurisdiction of the youth court over the youth with respect to the
12 acts alleged in the petition. A youth may not be prosecuted in the district court for a criminal offense
13 originally subject to the jurisdiction of the youth court unless the case has been transferred as provided in
14 this section. A case may be transferred to district court after prosecution as provided in 41-5-208 or
15 41-5-1105.

16 (6) Upon order of the youth court transferring the case to the district court under subsection (5),
17 the county attorney shall file the information against the youth without unreasonable delay.

18 (7) Any offense not enumerated in subsection (1) that arises during the commission of a crime
19 enumerated in subsection (1) may be:

20 (a) tried in youth court;

21 (b) transferred to district court with an offense enumerated in subsection (1), upon motion of the
22 county attorney and order of the youth court judge.

23 (8) If a youth is found guilty in district court of any of the offenses transferred by the youth court
24 and is sentenced to the state prison, the commitment must be to the department of corrections. The
25 department shall confine the youth in whatever institution that it considers proper, including a state youth
26 correctional facility under the procedures of 52-5-111. However, a youth under 16 years of age may not
27 be confined in the state prison.

28 (9) A youth whose case is transferred to district court may not be detained or otherwise placed
29 in a jail or other adult detention facility before final disposition of the youth's case unless:

30 (a) alternative facilities do not provide adequate security; and

(b) the youth is kept in an area that provides physical, as well as sight and sound, separation from adults accused or convicted of criminal offenses.

(10) After a hearing on the motion to transfer to district court, the court may designate the case as an extended jurisdiction juvenile prosecution under part 11 of this chapter, rather than transferring the matter to district court."

Section 4. Section 41-5-208, MCA, is amended to read:

"41-5-208. Transfer of supervisory responsibility to district court after prosecution— juvenile disposition in district court -- limitation on jurisdiction nonextended jurisdiction and nontransferred cases.

~~(1) To~~ After adjudication by the court of a case that was not transferred to district court under 41-5-206 and that was not prosecuted as an extended jurisdiction juvenile prosecution under part 11 of this chapter, the court may, on its own motion or the motion of the county attorney, transfer jurisdiction to the district court and order the transfer of supervisory responsibility from juvenile probation services to adult probation services. A transfer under this section may be made to ensure continued compliance with the court's disposition under 41-5-523, and may be made at any time after a youth reaches 18 years of age but before the youth reaches 21 years of age, the youth court judge may transfer jurisdiction to district court and order the transfer of supervisory responsibility and the youth's case files to the department.

(2) Before transfer, the court shall hold a hearing on whether the transfer should be made. The hearing must be held in conformity with the rules on a hearing on a petition alleging delinquency, except that the hearing must be conducted by the court without a jury. The court shall give the youth, the youth's counsel, and the youth's parents, guardian, or custodian notice in writing of the time, place, and purpose of the hearing at least 10 days before the hearing. At the hearing, the youth is entitled to receive:

(a) written notice of the motion to transfer;

(b) an opportunity to be heard in person and to present witnesses and evidence;

(c) a written statement by the court of the evidence relied on and reasons for the transfer;

(d) the right to cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

(e) the right to counsel.

(3) After the hearing, if the court finds by a preponderance of the evidence that transfer of continuing supervisory responsibility to the district court is appropriate, the court shall order the transfer.

1 ~~(2)~~(4) If a youth whose case has been transferred to district court under this section violates a
2 disposition previously imposed under 41-5-523, the district court may, after hearing, impose conditions as
3 provided under 46-18-201 through 46-18-203.

4 ~~(3)~~(5) If, at the time of transfer, the youth is incarcerated in a state youth correctional facility, the
5 district court may order that the youth, after reaching 18 years of age:

6 (a) be incarcerated in a state adult correctional facility, boot camp, or prerelease center; or

7 (b) be supervised by the department.

8 ~~(4)~~(6) The district court's jurisdiction over a case transferred under this section terminates when
9 the youth reaches 25 years of age."

10
11 **Section 5.** Section 41-5-501, MCA, is amended to read:

12 **"41-5-501. Petition -- form and content.** (1) A petition initiating proceedings under this chapter
13 ~~shall~~ must be signed by the county attorney and ~~shall~~ must be entitled "In the Matter of, a youth" and
14 ~~shall~~ must set forth with specificity:

15 ~~(1)~~(a) the facts necessary to invoke the jurisdiction of the court, together with a statement alleging
16 the youth to be a delinquent or in need of supervision;

17 ~~(2)~~(b) the charge of an offense, ~~which that shall~~ must:

18 ~~(a)~~(i) state the name of the offense;

19 ~~(b)~~(ii) cite in customary form the statute, rule, or other provisions of law ~~which that~~ the youth is
20 alleged to have violated;

21 ~~(c)~~(iii) state the facts constituting the offense in ordinary and concise language and in a such
22 manner ~~as to enable~~ that enables a person of common understanding to know what is intended; and

23 ~~(d)~~(iv) state the time and place of the offense as definitely as can be done;

24 ~~(3)~~(c) the name, birth date, and residence address of the youth;

25 ~~(4)~~(d) the names and residence addresses of parents, guardian, and spouse of the youth and, if
26 none of the parents, guardian, or spouse resides or can be found within the state or if there is none, the
27 adult relative residing nearest to the court;

28 ~~(5)~~(e) whether the youth is in detention or shelter care and, if so, the place of detention or shelter
29 care and the time ~~he~~ that the youth was detained or sheltered;

30 ~~(6)~~(f) if any of the matters required to be set forth by this section are not known, a statement of

those matters and the fact that they are not known; and

(7)(g) a list of witnesses to be used in proving the commission of the offense or offenses charged in the petition, together with their residence addresses. The names and addresses of any witnesses discovered after the filing of the petition ~~shall~~ must be furnished to the youth upon request.

(2) When a county attorney files a delinquency petition alleging that a youth committed an offense that would be a felony if committed by an adult and that is transferable under 41-5-206 or in which a youth 12 years of age or older allegedly used a firearm, the county attorney shall indicate in the petition whether the county attorney designates the proceeding an extended jurisdiction juvenile prosecution. When the county attorney files a delinquency petition alleging that a youth committed any other offense that would be a felony if committed by an adult, the county attorney may request that the court designate the proceeding an extended jurisdiction juvenile prosecution."

Section 6. Section 41-5-1102, MCA, is amended to read:

"41-5-1102. Extended jurisdiction juvenile prosecution ~~defined~~ ~~jurisdiction extended~~ -- designation. (1) A youth court case involving a youth alleged to have committed an offense that would be a felony if committed by an adult is an extended jurisdiction juvenile prosecution if:

(a) the youth was at least 14 years of age at the time of the alleged offense, the ~~prosecutor~~ county attorney requests that the case be designated an extended jurisdiction juvenile prosecution, a hearing is held under 41-5-1103, and the court designates the case as an extended jurisdiction juvenile prosecution; or

(b) the county attorney designates in the delinquency petition that the proceeding is an extended jurisdiction juvenile prosecution and the youth is alleged to have committed:

(i) ~~the alleged~~ an offense that is transferable under 41-5-206; or

(ii) any felony in which the youth allegedly used a firearm, if the youth was at least 12 years of age at the time of the alleged offense and allegedly used a weapon; or

(c) after a hearing upon a motion for transfer of the matter of prosecution to the district court under 41-5-206, the court designates the case as an extended jurisdiction juvenile prosecution.

(2) To enforce the court's disposition in an extended jurisdiction juvenile prosecution, the court shall retain jurisdiction ~~until the case is transferred to district court under this part or jurisdiction is terminated under the provisions of~~ as provided in 41-5-205."

Section 7. Section 41-5-1103, MCA, is amended to read:

"41-5-1103. ~~Hearing~~ court designation on request. (1) When a ~~prosecutor~~ county attorney requests that a case be designated as an extended jurisdiction juvenile prosecution under 41-5-1102(1) the court shall hold a hearing to consider the request.

(2) The hearing must be held within 30 days of the filing of the request unless good cause shown by the ~~prosecutor~~ county attorney or the youth that the hearing should be held later, in which case the hearing must be held within 90 days of the request.

(3) If the ~~prosecutor~~ county attorney shows by clear and convincing evidence that designating a case as an extended jurisdiction juvenile prosecution serves public safety, the court may, within 15 days after the hearing, designate the case as an extended jurisdiction juvenile prosecution. In determining whether public safety is served, the court shall consider the factors enumerated in [section 10].

~~(4) An order designating a case as an extended jurisdiction prosecution is not appealable until after disposition under 41-5-1104."~~

Section 8. Section 41-5-1104, MCA, is amended to read:

"41-5-1104. Disposition in extended jurisdiction juvenile prosecutions. (1) After designation of an extended jurisdiction juvenile prosecution, the case must proceed with an adjudicatory hearing, as provided in 41-5-521. If a youth in an extended jurisdiction juvenile prosecution pleads guilty ~~to~~ or is found guilty of ~~an offense described in 41-5-1102(1)(b)~~ a felony, the court shall:

(a) impose one or more juvenile dispositions under 41-5-523; and

(b) ~~impose an adult criminal sentence, the allowed by the statute that establishes the penalty for the offense of which the youth is convicted and that would be permissible if the offender were an adult.~~ The execution of which the sentence imposed under this subsection must be stayed on the condition that the youth not violate the provisions of the disposition order and not commit a new offense. If the youth violates the conditions of the stay or commits a new offense, the adult criminal sentence must be executed as provided in 41-5-1105.

(2) ~~Except as provided in subsection (3), if~~ If a youth in prosecuted as an extended jurisdiction prosecution juvenile after designation by the county attorney in the delinquency petition under 41-5-1102(1)(b) is convicted of an offense that is not an offense described in 41-5-1102(1)(b), the court shall adjudicate the youth delinquent and order a disposition under 41-5-523.

(3) If a youth in an extended jurisdiction juvenile prosecution pleads guilty to an offense that is not described in 41-5-1102(1) (b) a felony, the court may impose, with the youth's consent, a disposition provided under subsection (1)(b). If the youth does not consent to disposition under subsection (1)(b), the court shall impose a disposition as provided under subsection ~~(2)~~ (1)(a)."

Section 9. Section 41-5-1105, MCA, is amended to read:

"41-5-1105. ~~Execution~~ Revocation of stay -- disposition of adult sentence -- exception -- transfer to district court. (1) If a court has imposed on a youth an adult ~~criminal~~ sentence stayed under 41-5-1104(1)(b) and the youth violates the conditions of the stay or is alleged to have committed a new offense, the court may, without notice, direct that the youth be taken into immediate custody ~~and revoke the stay~~. The court shall notify the youth, the youth's counsel, and the youth's parents, guardian, or custodian in writing of the reasons alleged to exist for the revocation of the stay of execution of the adult sentence.

(2) (a) If the youth challenges the reasons for the revocation, the court shall hold a ~~summary~~ revocation hearing at which the youth is entitled to receive: be heard and represented by counsel

(i) written notice of the alleged violation;

(ii) evidence of the alleged violation;

(iii) an opportunity to be heard in person and to present witnesses and evidence;

(iv) the right to cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

(v) the right to counsel.

(b) After the revocation hearing, if the court finds by a preponderance of the evidence presented that the conditions of the stay have been violated or that the youth has committed a new offense, the court shall provide the youth with a written statement of the evidence relied on and reasons for revocation and shall:

(i) continue the stay and place the youth on probation;

(ii) impose one or more dispositions under 41-5-523; or

~~+(iii)~~ subject to 41-5-206(8) and (9), order execution of the sentence imposed under 41-5-1104(1)(b); or,

~~(iii) continue the stay and make written findings regarding the mitigating factors that justify~~

1 ~~continuing the stay.~~

2 ~~(3) If the stay of an adult sentence is revoked under this section, jurisdiction must be transferred~~
3 ~~to district court for execution of the sentence, subject to 41-5-206(8) and (9).~~

4 (3) Upon revocation and disposition under subsection (2)(b)(iii), the youth court shall transfer the
5 case to the district court. Upon transfer, the offender's extended jurisdiction juvenile status is terminated
6 and youth court jurisdiction is terminated. Ongoing supervision of the offender is with the district court's
7 adult probation services, rather than the youth court's juvenile probation services."

8
9 **NEW SECTION. Section 10. Public safety.** (1) In determining whether the public safety is served
10 by designating a case an extended jurisdiction juvenile prosecution, the court shall consider the following
11 factors:

12 (a) the seriousness of the alleged offense in terms of community protection, including the existence
13 of any aggravating factors, the use of a firearm, and the impact on the victim;

14 (b) the culpability of the youth in committing the alleged offense, including the level of the youth's
15 participation in planning and carrying out the offense and the existence of mitigating factors;

16 (c) the youth's prior record of delinquency;

17 (d) the youth's treatment history, including the youth's past willingness to participate meaningfully
18 in available treatment;

19 (e) the adequacy of the dispositions available in the juvenile justice system; and

20 (f) the dispositional options available for the youth.

21 (2) In considering the factors listed in subsection (1), the court shall give greater weight to the
22 seriousness of the alleged offense and the youth's prior record of delinquency than to the other listed
23 factors.

24
25 **NEW SECTION. Section 11. Proceedings -- rights.** A youth who is the subject of an extended
26 jurisdiction juvenile prosecution has the right to a trial by jury and to the effective assistance of counsel,
27 as provided in 41-5-511.

28
29 **NEW SECTION. Section 12. Enforcement of restitution orders.** If the court orders payment of
30 restitution and the youth fails to pay the restitution in accordance with the payment schedule or structure

1 established by the court or probation officer, the youth's probation officer may, on the officer's own motion
2 or at the request of the victim, file a petition for violation of probation or ask the court to hold a hearing
3 to determine whether the conditions of probation should be changed. The probation officer shall ask for
4 a hearing if the restitution has not been paid prior to 60 days before the term of probation expires. The
5 court shall schedule and hold the hearing before the youth's term of probation expires.

6
7 **NEW SECTION.** **Section 13. Codification instruction.** (1) [Sections 10 and 11] are intended to
8 be codified as an integral part of Title 41, chapter 5, part 11, and the provisions of Title 41, chapter 5, part
9 11, apply to [sections 10 and 11].

10 (2) [Section 12] is intended to be codified as an integral part of Title 41, chapter 5, part 5, and the
11 provisions of Title 41, chapter 5, part 5, apply to [section 12].

12
13 **NEW SECTION.** **Section 14. Severability.** If a part of [this act] is invalid, all valid parts that are
14 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
15 applications, the part remains in effect in all valid applications that are severable from the invalid
16 applications.

17
18 **NEW SECTION.** **Section 15. Effective date.** [This act] is effective on passage and approval.

19
20 **NEW SECTION.** **Section 16. Applicability.** [This act] applies to all offenses committed on or after
21 [the effective date of this act].

22 -END-

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE D. CRIPPEN**, on January 10, 1997, at 10:00 a.m., in Room 104 of the State Capitol.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused:

Sen. Lorents Grosfield, Vice Chairman (R)

Members Absent: None

Staff Present:

Valencia Lane, Legislative Services Division
Jody Bird, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 48, SB 99,
Posted January 6, 1997
Executive Action: None taken

HEARING ON SB 99

Sponsor: SENATOR FRED THOMAS, SD 31, Stevensville.

Proponents: SENATOR FRED THOMAS, SD 31, Stevensville
Juvenile Justice Mental Health Commission

SENATOR MIKE HALLIGAN, District 34, Missoula
Mary Ellerd, Executive Secretary, Montana Probation
Officers

Opening Statement by Sponsor: **SENATOR FRED THOMAS, SD 31.**
Stevensville. This bill was drafted by staff attorney Valencia Lane, and is a rewrite of the bill passed in the 1995 legislative session, with the necessary changes.

Judge John Larson, Fourth Judicial District, Missoula, is not able to be present today, but supports the bill, as does the Juvenile Justice Mental Health Commission.

Line 10 of the title, following the first semi colon after "juvenile", denotes the two sections of the bill: 1) dual sentencing; and 2) transfer of cases in juvenile court.

Judge Barz of Billings found difficulty with current law and issued an opinion in 1996, addressing double jeopardy and due process protection for the juvenile. SB 99 is designed to be applied at the very beginning of a youth court case which can be expanded well beyond a youth's eighteenth birthday, i.e., as adult sentencing.

{Tape: 1; Side: A; Approx. Time Count: #7; Comments: None}

Part A of the bill states what an extended sentence could include if a youth sentence is violated. Juvenile laws are referenced under 1995 Montana law and Minnesota law. Three cases are currently on appeal with the Montana Supreme Court. Section 9 is concerned with revocation of one sentence with two parts, rather than two sentences.

{Tape: 1; Side: A; Approx. Time Count: #12.}

There are amendments to Sections 7, 9 and 10. The seriousness of the sentence is communicated to the youth and the family early on, as well as ability to transfer the case to adult court, thus allowing treatment to be completed. (For example, a seventeen-year-old unable to repay damage before age 18.) The bill provides significant sanctions for repeat violators. Mineral County Attorney, Shaun Donovan, sent a fax in support of SB 99 (EXHIBIT #1).

{Tape: 1; Side: A; Approx. Time Count: #15; Comments: None}

Proponents' Testimony:

SENATOR MIKE HALLIGAN, District 34, Missoula. The Commission did look at both of these issues, and these were part of its recommendations.

Mary Ellerd, Executive Secretary, Montana Probation Officers.
The Probation Officers support SB 99.

Questions From Committee Members and Responses:

SENATOR SUE BARTLETT. Did you say a case could be transferred without an adult record? **SENATOR THOMAS** deferred to **SENATOR HALLIGAN.** **SENATOR HALLIGAN** asked that staff attorney Valencia Lane explain the difference between extended jurisdiction and transfer. **Valencia Lane.** The two parts of the bill are unrelated in "how" they work, but both are in the 1995 bill. 41-5-208, MCA is the transfer section, and Part 2 of Title 1, Chapter 5 on line 10 of the Title explains what the bill does to 41-5-208, MCA, the transfer statute. This statute says that the case of a youth adjudicated and dealt with by the Court as a run-of-the-mill youth, but is not cooperating with the Court, is subject to transfer to the District Court, i.e., Youth Court washes its hands of that youth. SB 99 attempts to clarify Part 2.

{Tape: 1; Side: A; Approx. Time Count: #22; Comments: None.}

SENATOR BARTLETT. If this were an extended jurisdiction case, would the youth end up with an adult record? **Valencia Lane.** I'm not sure.

SENATOR STEVE DOHERTY. If a sentence is extended beyond the age of majority, will the youth have an adult criminal record?

SENATOR MIKE HALLIGAN. Yes, but with immediate consequences and sanctions, it is hoped to prevent the youth from ending up in the adult system.

{Tape: 1; Side: B; Approx. Time Count: #00; Comments: None.}

SENATOR DOHERTY. Reference New Section 10s, lines 19 and 20, dispositions. A number are not doing sex offender analysis, as it is too costly. Are we going to give that juvenile to the adult side because we can't handle it on the juvenile side with dispositional treatment alternatives? The Study Commission recommended increases in provider alternatives. **SENATOR CRIPPEN.** Judge Barz' rationale was that due process was not followed in one situation.

{Tape: 1; Side: B; Approx. Time Count: #2.9; Comments: None.}

CHAIRMAN CRIPPEN. If you are sentencing a person to a work program and they become of age (18) during this process, do they still have the same due process privileges? **SENATOR HALLIGAN.** Yes. For example, however, if you have a juvenile proceeding in civil court, if it's transferred and it becomes a criminal proceeding, I don't know, theoretically or practically, if we've done all we can do to protect that juvenile's rights. There may still be some constitutional questions.

CHAIRMAN CRIPPEN. Are you trying to provide one sentence to cover an extended period of time? **SENATOR HALLIGAN.** Yes.

CHAIRMAN CRIPPEN. What happens if you don't have adequate juvenile facilities, and put a youth in an adult facility? Are we violating due process? **SENATOR HALLIGAN.** We are hoping early "plug-in" will save youths from becoming lost in the adult system, where there is little or no rehabilitation.

{Tape: 1; Side: B; Approx. Time Count: #82.; Comments: None.}

SENATOR BARTLETT. I want to hear from a representative of the Department of Corrections, Mr. Farriter, if possible, regarding the Department's attitude in dealing with juveniles. **Lois Adams, Department of Corrections.** The Department has taken no position on SB 99. In Section 5-23-45, MCA, a youth tried as an adult will go to the Women's Prison or to Pine Hills.

{Tape: 1; Side: B; Approx. Time Count: #12.4; Comments: None.}

SENATOR BARTLETT. I wanted to know what would be done preventively during the juvenile portion of the sentence. **Lois Adams** reiterated the "panoply of treatment available to the juvenile". **CHAIRMAN CRIPPEN.** You may need Director Day to answer this question. **Mike Farriter, Administrator, Community Corrections Division, Department of Correction.** We do not have a secure facility for juvenile girls now. We have a plan for secure care in Boulder, as they are now going to the Women's Prison. There are two problems: 1) the budget is earmarked only for adjudicated juveniles, and so we don't feel we can use those placement funds for youth adjudicated as adults to sent them out of state; 2) we can't send sex offenders to Pine Hills.

{Tape: 1; Side: B; Approx. Time Count: #17; Comments: None.}

Closing by Sponsor: **SENATOR THOMAS.** I would be happy to have Judge Larson visit with the Committee. As an example, a twelve-year-old in the Missoula area shot the owner of a pickup. The youth was stealing cigarettes from his pickup, and he hollered at the youth.

The law is designed to give the court system better ability to deal with these problems.

HEARING ON SB 48

Sponsor: **SENATOR MIKE SPRAGUE, SD 6, Billings.**

Proponents: **SENATOR MIKE HALLIGAN, District 34, Missoula**
Beth Baker, Department of Justice
Pete Surdock, Department of Public Health & Human Services
Lois Adams, Attorney, Department of Corrections
Richard Meeker, Chief Juvenile Probation Officer,
First Judicial District, Helena, and member of the
Study Commission

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **SENATOR BRUCE D. CRIPPEN**, on January 29, 1997, at 9:00 a.m., in the Senate Judiciary Chambers (Room 325) of the State Capitol, Helena, Montana.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Jody Bird, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 43, posted January 23 1997
SB 201, SB 202, posted
January 22, 1997
Executive Action: SB 48, SB 99, SB 79, SB 176

EXECUTIVE ACTION ON SB 48

Amendments: Prior executive session.

Motion: SENATOR MIKE HALLIGAN MADE A MOTION THAT 48 DO PASS AS AMENDED.

Discussion: SENATOR HALLIGAN. The assumptions have been dropped to zero.

SENATOR RIC HOLDEN. We need to look at how this program will be funded. It's possible that the Fiscal Note could total \$1 million.

SENATOR HALLIGAN. The counties can set up a new center or use existing facilities/officers. We in the Study Commission just tried to ensure that we're not increasing the funding, but rather re-pool existing resources. We not talking about new dollars here, and so we are able to zero this thing out (EXHIBITS #1, #2, #3).

Vote: SENATOR HALLIGAN'S MOTION CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SENATOR HOLDEN WHO VOTED NO.

{Tape: 1; Side A; Approx. Time Count: #7.0; Comments: 9:14 a.m..}

EXECUTIVE ACTION ON SB 99

Amendments: SENATORS BARTLETT AND HALLIGAN.

Motion: SENATOR HALLIGAN MADE A MOTION TO ADOPT AMENDMENTS sb009903.avl.

Discussion: SENATOR HALLIGAN. Judge John Larson believes the Fiscal Note is zeroed out here, as well, and so it takes adult sentencing out to achieve this cost reduction. The extended jurisdiction allows the Court jurisdiction of juveniles to age 25, so they don't get out of recompensing the victim when they turn 18.

SENATOR HOLDEN. What does this Fiscal Note say? SENATOR HALLIGAN. This Fiscal Note will be null and void, and we will request a revision before the bill goes to the Senate floor for discussion.

Vote: SENATOR HALLIGAN'S MOTION TO ADOPT THE AMENDMENTS CARRIED UNANIMOUSLY.

Motion: SENATOR SUE BARTLETT MADE A MOTION TO ADOPT AMENDMENTS sb009902.avl.

Discussion: SENATOR BARTLETT. This strikes and repeals 41-5-208, MCA altogether, pertaining to transfer of supervisory authority to adult district court, on page 5 of the bill. Judge Diane Barz' opinion related to Section 208, posing a double jeopardy problem, i.e., the possibility of two sentences for the same crime. The Interim Study Commission looked at this section and tried to amend it as well.

SENATOR HALLIGAN. I wish I knew if SENATOR BARTLETT were correct. I do think there is a double jeopardy issue here, but am opposed to changing it now. I want to see the Fiscal Note, and read Judge Barz' decision, then talk to a few more judges in other states where this is already in operation.

SENATOR HOLDEN. Did you go over these amendments with the sponsor? **SENATOR BARTLETT.** No, I did not.

SENATOR HALLIGAN. What was Judge Larson's comment on this? **SENATOR BARTLETT.** He wants to keep this language in the statutes, but I believe the Legislature has a responsibility to address the double jeopardy issue.

SENATOR STEVE DOHERTY. I also spoke to Judge Larson and got the same information, but Judge Barz does believe there is no problem in correcting the double jeopardy issue, and they're both pretty good judges. I believe Judge Barz' decision was well-reasoned and accurate. **VICE CHAIRMAN LORENTS GROSFIELD.** Now, in this bill, 208 is completely rewritten, so its a whole different deal. Would Judge Barz' decision be the same with 208 the way it is now? **SENATOR DOHERTY.** Her law clerk sent a memo saying she still sees the same problem, even with these changes.

CHAIRMAN CRIPPEN. The severability clause doesn't hurt this situation. **VICE CHAIRMAN GROSFIELD.** The severability clause doesn't apply to 208. **CHAIRMAN CRIPPEN.** But it would apply to this amendment. **SENATOR HALLIGAN.** These concerns are valid.

SENATOR BARTLETT. All the bill does is provide some due process procedures, but does not deal with the double jeopardy situation, leaving the potential for an adult sentence, as well as a juvenile sentence. It makes sense to pass this amendment, otherwise there is no assurance the issue will receive the same kind of consideration and attention.

{Tape: 1; Side: A; Approx. Time Count: #24.7; Comments: 9:32 a.m..}

Vote: SENATOR BARTLETT'S MOTION TO ADOPT AMENDMENTS sb009902.av1 FAILED IN A ROLL CALL VOTE (5-4).

Motion/Vote: SENATOR HALLIGAN MADE A MOTION THAT SB 99 DO PASS AS AMENDED. THE MOTION CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SENATOR BARTLETT WHO VOTED NO.

EXECUTIVE ACTION ON SB 79

Amendments: HALLIGAN amendments.

Motion: SENATOR MIKE HALLIGAN MADE A MOTION TO ADOPT HIS AMENDMENTS.

Discussion: Clyde Dailey. The amendments allow a licensing category as an investment adviser or investment adviser representative, and exempts national banks and trust corporations.

Vote: SENATOR HALLIGAN'S MOTION TO ADOPT HIS AMENDMENTS CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SENATOR HOLDEN WHO VOTED NO.

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION**

SELECT COMMITTEE ON CORRECTIONS

Call to Order: By CHAIRMAN BERGSAGEL, on February 20, 1997, at 3:30 p.m., in Room 325.

ROLL CALL

Members Present:

Rep. Ernest Bergsagel, Chairman (R)
Rep. William T. "Red" Menahan, Vice Chairman (D)
Sen. B.F. "Chris" Christiaens (D)
Rep. Gary Feland (R)
Sen. Delwyn Gage (R)
Rep. Royal C. Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Matt McCann (D)
Rep. Daniel W. McGee (R)
Sen. Charles "Chuck" Swysgood (R)
Rep. Steve Vick (R)
Rep. Diana E. Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Services Division
Mike Wingard, Legislative Audit Division
Meg Angell, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 83 (2/13/97)
SB 99 (2/17/97)
Executive Action: None

ANNOUNCEMENTS:

Chairman Bergsagel RE: Rep. McCann will serve as Chairman for today's meeting.

Rep. Royal Johnson RE: Juvenile Justice Subcommittee
{Tape: 1; Side: A; Approx. Time Count: .2.}

HEARING ON HB 83

Opening Statement by Sponsor: REP. ERNEST BERGSAGEL, HD 95
{Tape: 1; Side: A; Approx. Time Count: 2.1; Comments: Rep. Bergsagel introduced the bill.}

Questions From Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Count: 8.2; Comments: Now presiding: Vice-Chairman "Red" Menahan.}

Closing by Sponsor: REP. ERNEST BERGSAGEL

{Tape: 1; Side: B; Approx. Time Count: 28.0; Comments: Chairman Bergsagel emphasized this bill is not about "privatization" but is designed to regulate private facilities.}

ANNOUNCEMENT: Rep. Dan McGee RE: Subcommittee meeting, Friday, February 21, 7:00 a.m.; Room 312-2.

BREAK

EXHIBIT 11

{Tape: 1; Side: B; Approx. Time Count: 29.9; Comments: Exhibit 11 presented to secretary during break.}

HEARING ON SB 99

Opening Statement by Sponsor: SEN. FRED THOMAS, SD 31

{Tape: 1; Side: B; Approx. Time Count: 30.5; Comments: Sen. Thomas introduced the bill.}

Proponents' Testimony:

JOHN LARSON, District Court Judge, Missoula
{Tape: 1; Side: B; Approx. Time Count: 34.5.}

EXHIBITS 12-16

MIKE FERRITER, Department of Corrections
{Tape: 2; Side: A; Approx. Time Count: 2.4.}

Opponents' Testimony: None

Questions From Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Count: 4.1.}

Closing by Sponsor: CHAIRMAN BERGSAGEL, on behalf of SEN. THOMAS

{Tape: 2; Side: A; Approx. Time Count: 14.1.}

PRESENTATION: TOBY McADAM, former Montana State Prison Inmate
{Tape: 2; Side: A; Approx. Time Count: 14.2.}

QUESTIONS FROM COMMITTEE: None

PRESENTATION: MONTANA STATE PRISON CLASSIFICATION SYSTEM AUDIT

MIKE WINGARD, Legislative Audit Division
{Tape: 2; Side: A; Approx. Time Count: 28.5.}

EXHIBIT 17

QUESTIONS FROM COMMITTEE:

{Tape: 2; Side: B; Approx. Time Count: 0.}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

SELECT COMMITTEE ON CORRECTIONS

Call to Order: By CHAIRMAN BERGSAGEL, on March 8, 1997, at 10:20 a.m., in Room 325.

ROLL CALL

Members Present:

Rep. Ernest Bergsagel, Chairman (R)
Rep. William T. "Red" Menahan, Vice Chairman (D)
Sen. B.F. "Chris" Christiaens (D)
Rep. Royal C. Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Matt McCann (D)
Rep. Daniel W. McGee (R)
Rep. Steve Vick (R)
Rep. Diana E. Wyatt (D)

Members Excused: Rep. Gary Feland (R)
Sen. Delwyn Gage (R)
Sen. Charles "Chuck" Swysgood (R)

Members Absent: None

Staff Present: Susan Fox, Legislative Services Division
Mike Wingard, Legislative Audit Division
Skip Culver, Legislative Fiscal Division
Meg Angell, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted:

Executive Action: HB 102; HB 125; HB 272; HB
279; HB 313; SB 109; SB 99; SB
256; SB 37; SB 2; SB 6; HB
544; HB 405.

EXECUTIVE ACTION

EXHIBIT 1

HB 102

MOTION: REP. McCANN MOVED HB 102 DO PASS.

{Tape: 1; Side: A; Approx. Time Count: 1.9.}

DISCUSSION

MOTION/VOTE: REP. JOHNSON MOVED COORDINATING AMENDMENT WITH SB 2 AS EXPLAINED BY SUSAN FOX. Motion carried 9-0.

{Tape: 2; Side: B; Approx. Time Count: 13.4.}

NOTE: AT THIS POINT IN THE MEETING NOISE FROM THE ROTUNDA BECAME AN ISSUE AND THE COMMITTEE MOVED TO ROOM 317.

{Tape: 2; Side: B; Approx. Time Count: 18.8.}

MOTION/VOTE: REP. JOHNSON MOVED LANGUAGE CHANGE FOR CONSISTENCY RELATIVE TO STATE YOUTH CORRECTIONAL FACILITY. Motion carried 9-0.

{Tape: 2; Side: B; Approx. Time Count: 21.3.}

MOTION/VOTE: REP. JOHNSON MOVED LANGUAGE CHANGE FOR CONSISTENCY RELATIVE TO DELINQUENT YOUTH/YOUTH IN NEED OF SUPERVISION, AND FOR PINE HILLS YOUTH CORRECTIONAL FACILITY. Motion carried 9-0.

{Tape: 2; Side: B; Approx. Time Count: 25.6.}

DISCUSSION OF FISCAL NOTE FOR SB 109.

VOTE: (SB 109 be concurred in as amended). Motion carried 9-1 with REP. WYATT voting no and SEN. SWYSGOOD voting yes by proxy.

{Tape: 2; Side: B; Approx. Time Count: 27.1.}

SB 99

MOTION/VOTE: REP. VICK MOVED TO REMOVE SB 99 FROM THE TABLE. Motion carried 9-0.

{Tape: 2; Side: B; Approx. Time Count: 29.8.}

MOTION: REP. KASTEN MOVED SB 99 BE CONCURRED IN AS AMENDED.

{Tape: 2; Side: B; Approx. Time Count: 29.9.}

DISCUSSION

VOTE: Motion carried 9-1 with REP. WYATT voting no and SEN. SWYSGOOD voting yes by proxy.

{Tape: 2; Side: B; Approx. Time Count: 43.1.}

FURTHER DISCUSSION OF SB 99

{Tape: 2; Side: B; Approx. Time Count: 43.7; Comments: Discussion continued on Tape 3, Side A.}

MOTION/VOTE: REP JOHNSON MOVED BILL BE DESIGNATED OTO. Motion carried 6-3 with REP. MCGEE, REP. VICK and SEN. CHRISTIAENS voting no.

{Tape: 3; Side: A; Approx. Time Count: 1.2.}

SB 256

EXHIBIT 6

MOTION: REP. MENAHAN MOVED SB 256 BE CONCURRED IN.

{Tape: 3; Side: A; Approx. Time Count: 2.2.}

MOTION: REP. WYATT MOVED AMENDMENTS

{Tape: 3; Side: A; Approx. Time Count: 2.3.}